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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,294	05/31/2006	Moreno Naldoni	U 015959-0	2073
140	7590	07/05/2007		
LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023			EXAMINER THANH, QUANG D	
			ART UNIT 3771	PAPER NUMBER
			MAIL DATE 07/05/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/552,294

Applicant(s)

NALDONI, MORENO

Examiner

Quang D. Thanh

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/30/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4-8, 11-12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Re claims 4 and 11, the phrase "two lateral portions which are moved in the directions defined by double arrows?" is unclear as to which direction ?
5. Re claim 14, "said means (11)" lacks antecedent basis
6. Claims 5-8 and 12 are also rejected because they depend on a rejected claim.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-9 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Shatz (5,295,982). Shatz discloses a skin massage device comprising: a handset 2

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connected to a machine body; said handset 2 in turn comprising a chamber 4 closed by a deformable membrane 3 which at least partly adheres to a patient's skin by virtue of a vacuum generated in said chamber 4 by a vacuum generating device (vacuum pump, col. 2, lines 27-29); means (fig. 1, col. 3, lines 25-31) for producing a variable vacuum in said chamber 4 to deform said membrane 3 and so lift, fold, compress, and smooth the patient's skin as to perform the massage cycle set by the operator; wherein said membrane 3 has projections and recesses (fig. 2) to assist the formation of folds of tissue on which to exert a given pressure to perform the desired massage; wherein said membrane 3 varies in thickness so as to yield differently at different points (col. 3, lines 64-66); wherein said membrane 3 comprises a central portion having at least one hole 4a for lifting a portion of skin ; and as best understood, two lateral portions (at the side edges) ; wherein said central portion on one side, and said lateral portions on the other, of said membrane are curved slightly and oppositely concave (fig. 2); wherein said central portion of said membrane 3 is convex with respect to the inside of said chamber 4 (fig. 2), and said lateral portions concave with respect to said chamber 4 (fig. 2), wherein said lateral portions are thicker than said central portion (fig. 2); wherein said lateral portions each have two projections (fig. 2); wherein said membrane 3 is disposable (see abstract); wherein said handset 2 has means for activating and programming said device (col. 2, lines 47-56); and as best understood, wherein the means are programmable to perform pulsating treatment cycles of a patient's skin as determined by an operator (col. 2, lines 47-56, fig. 1).

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9. Claims 1-4, 7-8 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Frenkel et al. (DE 4304091 A1). Frenkel discloses a skin massage device comprising: a handset (fig. 1) connected to a machine body; said handset in turn comprising a chamber closed by a deformable membrane 3 which at least partly adheres to a patient's skin by virtue of a vacuum generated in said chamber by a vacuum generating device 5 (fig. 1); means for producing a variable vacuum in said chamber 4 to deform said membrane 3 and so lift, fold, compress, and smooth the patient's skin as to perform the massage cycle set by the operator; wherein said membrane 3 has projections and recesses (fig. 1) to assist the formation of folds of tissue on which to exert a given pressure to perform the desired massage; wherein said membrane 3 varies in thickness so as to yield differently at different points (fig. 2); wherein said membrane 3 comprises a central portion having at least one hole (fig. 2) for lifting a portion of skin ; and as best understood, two lateral portions (at the side edges in fig. 2); wherein said lateral portions are thicker than said central portion (fig. 2); wherein said lateral portions each have two projections (next to 3a and 3b, fig. 2); wherein said handset has means for activating and programming said device (fig. 1); and as best understood, wherein the means are programmable to perform pulsating treatment cycles of a patient's skin as determined by an operator (fig. 1).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Schatz or Frankel in view of Jacobs (5,665,053). Schatz or Frankel discloses the claimed invention except for the membrane having a central through hole and an ultrasound emitting device being housed in said central through hole. However, Jacobs teaches an endermology device comprising a vacuum source and an ultrasound generator for applying ultrasonic wave energy to increase the breakdown of subcutaneous fatty tissue (col. 1, lines 30-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in either the Schatz or Frankel's reference, to include an ultrasound emitting device, as suggested and taught by Jacobs, for the purpose of providing means to perform endermology that utilizes ultrasonic wave energy to increase the breakdown of subcutaneous fatty tissue (col. 1, lines 30-67).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The Central FAX phone

number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang D. Thanh

Quang D. Thanh, Primary Examiner  
Art Unit 3771, (571) 272-4982